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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

MATTHEW F. ABBOTT,  
A resident of Indiana

Plaintiff,

vs.

STARLINGER NORTH AMERICA,  
INC., an Illinois corporation,  
MAPLAN MASCHINEN und  
TECHNISCHE ANLAGEN PLANUGS  
und FERTIGUNGS Gesellschaft m.b.H.,  
an Austrian Company and STARLINGER &  
COMPANY Gesellschaft m.b.H., an  
Austrian company,

Defendants

No. 08 C 642

JUDGE DARRAH

MAG. JUDGE VALDEZ

**DEFENDANT MAPLAN MASCHINEN und TECHNISCHE ANLAGEN PLANUGS  
und FERTIGUNGS GESMBH'S MOTION FOR LEAVE TO FILE AMENDED  
ANSWER AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S AMENDED  
COMPLAINT**

Now comes the Defendant, Maplan Maschinen und Technische Anlagen Planungs und Fertigungs Gesellschaft m.b.H. (hereafter "Maplan"), by its attorneys, Lloyd E. Williams, Jr. and Hanson L. Williams, and for its Motion for Leave to File its Amended Answer and Affirmative Defenses to Plaintiff's Amended Complaint, states as follows:

1. Plaintiff filed this product liability action on January 30, 2008. Plaintiff alleges that he injured his hand in a Rubber Injection Moulding Machine manufactured by Maplan.

2. On July 15, 2008, Maplan filed its Appearance and Answer to Plaintiff's Amended Complaint. Maplan's Answer included the affirmative defenses of Comparative Negligence, Sole Proximate Cause, and Open & Obvious danger.

3. On July 25, 2008, counsel for Maplan sent to counsel for the Plaintiff a proposed Amended Answer to the Amended Complaint that Maplan proposed be filed with the Court. The Amended Answer includes the two additional affirmative defenses of Non-Party Fault as provided for under Indiana Code § 34-51-2-1 *et seq.* (due to the apparent alteration/modification of the machine by the Plaintiff's employer) and Incurred Risk/Assumption of Risk. (See Maplan's Amended Answer and Affirmative Defenses, attached hereto as Exhibit A).

4. On July 28, 2008, Plaintiff's counsel indicated that for unspecified reasons he was objecting to the additional defenses being raised in Maplan's proposed Amended Answer.

5. This matter is still in the early phases of written discovery. No depositions have been noticed or taken. This amendment is not brought for the purpose of delay and Plaintiff will not suffer undue prejudice if Maplan is allowed to file this Amended pleading.

6. Additionally, this is Maplan's first amendment of its pleadings and should be granted as a matter of course pursuant to Fed. R. Civ. Proc. 15 (a)(1).

WHEREFORE, Defendant Maplan respectfully requests that this Honorable Court grant its Motion for Leave to File its Amended Answer to Plaintiff's Amended Complaint, and for any other relief this Court deems just and proper under the circumstances.

Respectfully submitted,

Maplan Maschinen und Technische Angagen  
Planugs und Fertigungs Gesellschaft m.b.H.

By: /s/Lloyd E. Williams, Jr.

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